

Order

Michigan Supreme Court
Lansing, Michigan

May 2, 2008

Clifford W. Taylor,
Chief Justice

135538

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

DOROTHY SMALL,
Plaintiff-Appellee,
v

SC: 135538
COA: 275332
Van Buren CC: 05-054407-NH

STEPHEN T. WYSONG, M.D. and
HEALTHCARE MIDWEST,
Defendants-Appellees,
and

SOUTH HAVEN COMMUNITY HOSPITAL,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the November 13, 2007 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court prior to the completion of the proceedings ordered by the Court of Appeals.

MARKMAN, J., concurs in part and dissents in part and states as follows:

Although I would deny leave to appeal with regard to the characterization by the Court of Appeals of plaintiff's two other claims, I believe that the court erred in characterizing as an ordinary-negligence claim plaintiff's claim that an x-ray should have been conducted following her appendectomy and before her incision was closed. Because this seems to me a matter significantly beyond common knowledge, *Bryant v Oakpointe Villa Nursing Ctr, Inc*, 471 Mich 411 (2004), I believe that this claim sounds in medical malpractice.

YOUNG, J., dissents and states as follows:

For the reasons stated in the Court of Appeals dissenting opinion, I would reverse the Court of Appeals judgment in part and affirm the trial court's ruling that plaintiff's complaint sounded in medical malpractice rather than ordinary negligence.

CORRIGAN, J., joins the statement of YOUNG, J.



d0429

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 2, 2008

Corbin R. Davis

Clerk